## 

1 2 3 4	Marc V. Kalagian Attorney at Law: 4460 Law Offices of Lawrence D. Rohlfing 12631 East Imperial Highway, Suite C-115 Santa Fe Springs, CA 90670 Tel.: (562)868-5886 Fax: (562)868-8868	
5	E-mail: rohlfing.office@rohlfinglaw.com Attorneys for Plaintiff Shannon D. Lyons	1
7 8 9	UNITED STATES DISTRICT COURT DISTRICT OF NEVADA	
10 11 12 13 14 15 16	SHANNON D. LYONS,  Plaintiff,  vs.  CAROLYN W. COLVIN, Acting Commissioner of Social Security,  Defendant.	Case No.: 2:14-cv-00845-JAD-CWH  STIPULATION FOR THE AWARD AND PAYMENT OF ATTORNEY FEES AND EXPENSES PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d)  and ORDER
17 18 19 20 21 22 23 24 25 26	TO THE HONORABLE CARL W. HOFFMAN, MAGISTRATE JUDGE OF THE DISTRICT COURT:  IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Shannon D. Lyons be awarded attorney fees and expenses in the amount of THREE THOUSAND TWO HUNDRED dollars (\$3,200.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 1920; 2412(d).	

After the Court issues an order for EAJA fees to Shannon D. Lyons, the government will consider the matter of Shannon D. Lyons's assignment of EAJA fees to Marc V. Kalagian. The retainer agreement containing the assignment is attached as exhibit 1. Pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521, 2529 (2010), the ability to honor the assignment will depend on whether the fees are subject to any offset allowed under the United States Department of the Treasury's Offset Program. After the order for EAJA fees is entered, the government will determine whether they are subject to any offset.

Fees shall be made payable to Shannon D. Lyons, but if the Department of the Treasury determines that Shannon D. Lyons does not owe a federal debt, then the government shall cause the payment of fees, expenses and costs to be made directly to Law Offices of Lawrence D. Rohlfing, pursuant to the assignment executed by Shannon D. Lyons. *United States v.* \$186,416.00, 722 F.3d 1173, 1176 (9th Cir. 2013) (\$186,416.00 II) (ordering fees paid to counsel because of an assignment that did not interfere with a raised superior lien). Any payments made shall be delivered to Marc V. Kalagian.

<sup>1</sup> The Commissioner does not stipulate to the citation of \$186,416.00 II, and will

Because the parties have agreed to the payment of EAJA fees, and the amount, and to avoid motion practice solely related to Plaintiff's citation, the Commissioner

agrees to this stipulation. The Commissioner reserves the right to challenge the applicability of \$186,416 II to any Social Security case, and this Stipulation should

not participate in representing to this Court that it carries legal import in these proceedings. \$186,416 II involved a different statute and very different factual

circumstances than those presented here, or in other Social Security cases.

not be construed as a waiver of such reservation.

Shannon D. Lyons contends that *U.S. v.* \$186,416.00 in *U.S. Currency*, 642 F.3d 753, 757 (9th Cir. 2011) (\$186,416.00 I) held that there is no functional difference between the CAFRA and EAJA in terms of "ownership" of the fee.

<sup>19 | 20 |</sup> 

1	This stipulation constitutes a compromise settlement of Shannon D. Lyons's		
2	request for EAJA attorney fees, and does not constitute an admission of liability on		
3	the part of Defendant under the EAJA or otherwise. Payment of the agreed amoun		
4	shall constitute a complete release from, and bar to, any and all claims that		
5	Shannon D. Lyons and/or Marc V. Kalagian including Law Offices of Lawrence		
6	D. Rohlfing may have relating to EAJA attorney fees in connection with this		
7	action.		
8	This award is without prejudice to the rights of Marc V. Kalagian and/or the		
9	Law Offices of Lawrence D. Rohlfing to seek Social Security Act attorney fees		
10	under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.		
11	DATE: October 19, 2015 Respectfully submitted,		
12	LAW OFFICES OF LAWRENCE D. ROHLFING		
13	/s/Marc V. Kalagian		
14	BY: Marc V. Kalagian		
15	Attorney for plaintiff Shannon D. Lyons		
16	DATED: October 19, 2015 DANIEL G. BOGDEN		
17	United States Attorney		
18	/s/ Chantal R. Jenkins Chantal R. Jenkins Special Assistant United States Attorney Attorneys for Defendant Carolyn W. Colvin,		
19			
20	Acting Commissioner of Social Security  (Per e-mail authorization)		
21			
22	ORDER  Based on the parties' stipulation [ECF 26] and with good cause appearing and no reason for delay, IT IS HEREBY ORDERED that the plaintiff is awarded \$3,200.00 in attorney fees and expenses under the Equal Access to Justice Act and under the		
23			
24	terms of the stipulation, and <b>judgment shall be so amended</b> . Plaintiff's Petition for Attorney Fees, Costs, and Expenses <b>[ECF 25] is DENIED</b> as moot.		
25	Attorney 1 cos, costs, and expenses [Lot 23] is better as moot.		
26	Jennifer Dorsey		
	U.S. District Judge 10/21/15		